HIGHWAY REAUTHORIZATION (ISTEA)/Committee Substitute, as Amended

SUBJECT: **Intermodal Surface Transportation Efficiency Act of 1997 . . . S. 1173. Modified committee substitute amendment, as amended.**

ACTION: AMENDMENT AGREED TO, 96-4

SYNOPSIS: As reported, S. 1173, the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1997, will reauthorize for 6 years the Federal-aid highway, highway safety, and other surface transportation programs. A total of $145 billion will be authorized, which represents a 20-percent nominal and 5-percent real increase over the previous 6-year authorization. (Due to a filibuster, S. 1171 was returned to the calendar last year, and Congress passed S. 1519 to provide a 6-month extension of the highway bill instead.)

The committee modified substitute amendment, as amended, would authorize a total of $214.3 billion for transportation projects over the next 6 years. Most of that spending would be provided as contract authority, which is a form of direct spending the outlays for which are counted under discretionary outlay budget caps and are limited by annual obligation limits set in appropriations bills. The Chairman of the Budget Committee has indicated that it is his intent to propose in the Budget Resolution a reduction of other discretionary outlays or mandatory outlays in order to offset the expected increased outlays for transportation. Many House Members have stated that they favor increasing spending by even more than proposed in the Senate bill (primarily in order to fund an estimated $9 billion in "demonstration" projects; see vote No. 29). They have also suggested allowing the increased spending to be "off-budget," deficit spending. The bill was originally reported by the Environment and Public Works Committee with $145 billion for the Federal-Aid Highways Program. A bipartisan amendment was then adopted to increase the amount provided for the Federal-Aid Highways Program by $25.8 billion. That amendment was adopted due to an increase in the amount in the highway trust fund that came from transferring the future proceeds from the 4.3-cent-per-gallon gas tax that was enacted in 1993 from the general fund of the Treasury to the transportation trust funds (80 percent for highways and 20 percent for mass transit). A Banking Committee amendment was also adopted to authorize $41.3 billion for transit programs (see vote No. 25); that

(See other side)

YEAS (96)				NAYS (4)		NOT VOTING (0)	
Republican		**Democrats**		**Republicans**	**Democrats**	**Republicans**	**Democrats**
(53 or 96%)		**(43 or 96%)**		**(2 or 4%)**	**(2 or 4%)**	**(0)**	**(0)**
Abraham	Helms	Akaka	Johnson	Santorum	Feingold		
Allard	Hutchinson	Baucus	Kennedy	Specter	Kohl		
Ashcroft	Hutchison	Biden	Kerrey				
Bennett	Inhofe	Bingaman	Kerry				
Bond	Jeffords	Boxer	Landrieu				
Brownback	Kempthorne	Breaux	Lautenberg				
Burns	Kyl	Bryan	Leahy				
Campbell	Lott	Bumpers	Levin				
Chafee	Lugar	Byrd	Lieberman				
Coats	Mack	Cleland	Mikulski				
Cochran	McCain	Conrad	Moseley-Braun				
Collins	McConnell	Daschle	Moynihan				
Coverdell	Murkowski	Dodd	Murray				
Craig	Nickles	Dorgan	Reed				
D'Amato	Roberts	Durbin	Reid				
DeWine	Roth	Feinstein	Robb				
Domenici	Sessions	Ford	Rockefeller				
Enzi	Shelby	Glenn	Sarbanes				
Faircloth	Smith, Bob	Graham	Torricelli				
Frist	Smith, Gordon	Harkin	Wellstone				
Gorton	Snowe	Hollings	Wyden				
Gramm	Stevens	Inouye					
Grams	Thomas						
Grassley	Thompson						
Gregg	Thurmond						
Hagel	Warner						
Hatch							

EXPLANATION OF ABSENCE:
1—Official Business
2—Necessarily Absent
3—Illness
4—Other

SYMBOLS:
AY—Announced Yea
AN—Announced Nay
PY—Paired Yea
PN—Paired Nay

amount was $5 billion greater than the amount originally proposed by the Banking Committee. Approximately $31 billion of that amount would be contract authority out of the mass transit fund. The additional $5 billion authorization would be subject to appropriations from the general fund of the Treasury. The amounts made available under this bill for fiscal year (FY) 1998 would be reduced by the amounts made available for FY 1998 by the short-term highway bill enacted last year; this technical provision would prevent double-funding in FY 1998. Under the Federal-Aid Highway Program, each State would receive an annual allocation no less than 90 percent of the amount that it paid in gas taxes for the program. Other amendments were adopted that were intended to raise the minimum allocation to 91 percent. No minimum allocation would be adopted for transit funding. Overall, the committee substitute would change funding patterns from the previous 6-year highway bill to shift funding to swiftly growing States in the South and the West.

Apportionment formulas:

- apportionment formulas would be based on current transportation measurements in each State instead of on historical measurements;
- each State would receive a minimum allocation of 90

- pilot projects would be authorized to examine alternatives to some transportation safety rules, including rules on the transportation of hazardous agricultural production materials, and improvements would be made to the regulatory relief processes from those rules during times of emergencies;
- grants would be given for education programs on child safety seats;
- a study would be conducted of safety issues attendant to the transportation of school children to and from school and school activities by various transportation modes; and
- $15 million annually would be authorized for railway crossing improvements in high-speed rail corridors.

Taxes:

- existing transportation taxes and tax credits would be extended for 6 years (these reauthorizations and authorizations were not in the bill as reported by the Environment and Public Works Committee because they are under the Finance Committee's jurisdiction; they were added by amendment); the ethanol tax exemption would be extended for 7 years (for related debate, see vote No. 27); the tax on diesel fuel used by trains would be repealed; and the tax exemption for employer-provided transit passes would be increased.

Environment:

- When a Federal-aid highway project required the creation of new wetlands to replace wetlands removed by the project, preference would be given to using private sector mitigation banks;
- funding for the Congestion Mitigation and Air Quality Improvement Program would be increased by 18 percent;
- the Environmental Protection Agency would be ordered to proceed with a specified implementation schedule for its new ozone and particulate standards (this provision is not intended as an endorsement of those standards, the legality and appropriateness of which are being challenged in court); and
- States would be allowed to use surface transportation program funds for programs to reduce motor vehicle emissions caused by extreme cold-start conditions.

Administrative reforms, new initiatives:

- the bridge program would be made part of the National Highway System (NHS);
- the Interstate System would be made part of the Surface Transportation Program (STP);
- demonstration projects, if any, authorized in this bill or subsequent bills would have to be funded out of States' allocations (see vote No. 29);
- the Secretary of Transportation would select one or more magnetic levitation (mag-lev) transit projects for pre-construction planning activities, and after those activities were completed would select one project for final design and construction activities;
- funds authorized from this Act would not be used to lobby any State or local government on legislation unless such lobbying was consistent with previously-existing Federal mandates or incentive programs (this provision would stop the Federal Government from lobbying States to pass mandatory motorcycle helmet laws);
- funds would not be withheld from any entity or person for complying with a court order that found the disadvantaged business enterprise (DBE) program to be unconstitutional, and the General Accounting Office would prepare biennial reviews on the DBE program that would include information: on the program's costs, on any findings of discrimination, on DBE and non-DBE businesses' and owners' net worth; on DBE program graduation rates; and on similar topics; for related debate, see vote No. 23;
- biennial reports would be prepared on the backlog of current highway and bridge needs and on estimates of future highway and bridge needs;
- the national ferry program would be extended and increased to an average of $30 million per year in contract authority;
- funds would be authorized to preserve historic covered bridges; and
- a commercial zone to facilitate commerce between New Mexico and Mexico would be established.

Increased flexibility for the States:

- up to 50 percent of interstate maintenance funds could be used in the STP and NHS accounts, and numerous measures to streamline project approval and planning for surface transportation projects would be enacted;
- NHS and STP funds could be used for public passenger rail and bus terminals (including Amtrak), "intelligent transportation systems," magnetic levitation transportation systems, and other projects;
- State and local governments would be allowed to donate real property to meet matching requirements;
- rail rights-of-way would not be converted into trails if more than half the local governments affected object;
- States would be allowed to use their highway funds to combat fuel tax evasion; and
- the involvement in transportation planning of local officials from nonmetropolitan planning areas would be increased.

NOTE: By unanimous consent, following the vote, the Senate proceeded to third reading on the bill and then set it aside until such time as the House companion measure arrived, at which time the text of the Senate measure would be substituted for the text of the House bill, the House bill would be passed, and a conference would be requested.

Those favoring the committee modified substitute amendment, as amended, contended:

We are very pleased with the compromises that have been reached in this bill. Over the course of the past year, a consensus has gradually built on the advisability of greater highway funding. Our transportation infrastructure is crumbling, and our economy is booming. We have the fiscal ability right now to invest in transportation, and we have seized the opportunity with this bill. Overall, this bill will provide $214.3 billion in transportation funding over the next 6 years, which is substantially higher than the amount provided in the last bill. That spending will lead to large increases in other economic activity. We know from decades of experience that building infrastructure leads to new business formation along the transportation routes, new jobs, and lower prices. This bill, though, will do much more than provide more funding. It will also build on the lessons we have learned from implementing the first ISTEA bill. As with the first bill, the central goals of this bill are to increase State flexibility in using transportation funds, to increase the efficiency of transportation programs, and to promote a wide range of modes of transportation. Reforms include provisions to consolidate and streamline transportation programs, to enact new modes of financing, and to expand the ability of States to move funds between programs.

Perhaps the most disappointing result of the first ISTEA bill was the failure of its apportionment formulas to work as expected. Donee States (States that have traditionally paid more in gas taxes than they have received in spending) continued to be shortchanged. We believe that we have come up with new formulas that will finally end most of the inequities. The new methods for distributing funds will especially increase funding for rapidly growing States in the South and the West. Most Senators strongly support these changes, though it is anticipated that the House will propose alternative means of distributing funds. This issue will likely be contentious in conference. Another likely area of contention will be how Congress will pay for increased transportation spending. The Senate is largely committed to paying for it by cutting other spending instead of by increasing total spending and then paying for it with tax hikes or just adding the cost to the deficit. Yet another major area that will likely cause considerable debate between the House and the Senate is whether any demonstration projects will receive funding.

We are confident, though, that these issues and others will be resolved in conference, and that the final product will be one which most Senators will support. This bill deserves broad, bipartisan support. We urge its adoption.

Those opposing the committee modified substitute amendment, as amended, contended:

Our States deserve greater highway allocations than they will receive under this bill. The formulas used to distribute funds put way too much emphasis on the amounts that are paid in gas taxes by each State. Instead of looking at how much is paid, Congress should look at how much is needed, as it does for virtually every other Federal program. For instance, when the Federal Government